

111TH CONGRESS
2D SESSION

S. 3847

AN ACT

To implement certain defense trade cooperation treaties, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Security Cooperation
3 Act of 2010”.

4 **TITLE I—DEFENSE TRADE**
5 **COOPERATION TREATIES**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Defense Trade Co-
8 operation Treaties Implementation Act of 2010”.

9 **SEC. 102. EXEMPTIONS FROM REQUIREMENTS.**

10 (a) RETRANSFER REQUIREMENTS.—Section 3(b) of
11 the Arms Export Control Act (22 U.S.C. 2753(b)) is
12 amended by inserting “a treaty referred to in section
13 38(j)(1)(C)(i) of this Act permits such transfer without
14 prior consent of the President, or if” after “if”.

15 (b) BILATERAL AGREEMENT REQUIREMENTS.—Sec-
16 tion 38(j)(1) of such Act (22 U.S.C. 2778(j)(1)) is amend-
17 ed—

18 (1) in the subparagraph heading for subpara-
19 graph (B), by inserting “FOR CANADA” after “EX-
20 CEPTION”; and

21 (2) by adding at the end the following new sub-
22 paragraph:

23 “(C) EXCEPTION FOR DEFENSE TRADE
24 COOPERATION TREATIES.—

25 “(i) IN GENERAL.—The requirement
26 to conclude a bilateral agreement in ac-

1 cordance with subparagraph (A) shall not
2 apply with respect to an exemption from
3 the licensing requirements of this Act for
4 the export of defense items to give effect to
5 any of the following defense trade coopera-
6 tion treaties, provided that the treaty has
7 entered into force pursuant to article II,
8 section 2, clause 2 of the Constitution of
9 the United States:

10 “(I) The Treaty Between the
11 Government of the United States of
12 America and the Government of the
13 United Kingdom of Great Britain and
14 Northern Ireland Concerning Defense
15 Trade Cooperation, done at Wash-
16 ington and London on June 21 and
17 26, 2007 (and any implementing ar-
18 rangement thereto).

19 “(II) The Treaty Between the
20 Government of the United States of
21 America and the Government of Aus-
22 tralia Concerning Defense Trade Co-
23 operation, done at Sydney September
24 5, 2007 (and any implementing ar-
25 rangement thereto).

1 “(ii) LIMITATION OF SCOPE.—The
2 United States shall exempt from the scope
3 of a treaty referred to in clause (i)—

4 “(I) complete rocket systems (in-
5 cluding ballistic missile systems, space
6 launch vehicles, and sounding rockets)
7 or complete unmanned aerial vehicle
8 systems (including cruise missile sys-
9 tems, target drones, and reconnais-
10 sance drones) capable of delivering at
11 least a 500 kilogram payload to a
12 range of 300 kilometers, and associ-
13 ated production facilities, software, or
14 technology for these systems, as de-
15 fined in the Missile Technology Con-
16 trol Regime Annex Category I, Item
17 1;

18 “(II) individual rocket stages, re-
19 entry vehicles and equipment, solid or
20 liquid propellant motors or engines,
21 guidance sets, thrust vector control
22 systems, and associated production fa-
23 cilities, software, and technology, as
24 defined in the Missile Technology

1 Control Regime Annex Category I,
2 Item 2;

3 “(III) defense articles and de-
4 fense services listed in the Missile
5 Technology Control Regime Annex
6 Category II that are for use in rocket
7 systems, as that term is used in such
8 Annex, including associated produc-
9 tion facilities, software, or technology;

10 “(IV) toxicological agents, bio-
11 logical agents, and associated equip-
12 ment, as listed in the United States
13 Munitions List (part 121.1 of chapter
14 I of title 22, Code of Federal Regula-
15 tions), Category XIV, subcategories
16 (a), (b), (f)(1), (i), (j) as it pertains to
17 (f)(1), (l) as it pertains to (f)(1), and
18 (m) as it pertains to all of the subcat-
19 egories cited in this paragraph;

20 “(V) defense articles and defense
21 services specific to the design and
22 testing of nuclear weapons which are
23 controlled under United States Muni-
24 tions List Category XVI(a) and (b),
25 along with associated defense articles

1 in Category XVI(d) and technology in
2 Category XVI(e);

3 “(VI) with regard to the treaty
4 cited in clause (i)(I), defense articles
5 and defense services that the United
6 States controls under the United
7 States Munitions List that are not
8 controlled by the United Kingdom, as
9 defined in the United Kingdom Mili-
10 tary List or Annex 4 to the United
11 Kingdom Dual Use List, or any suc-
12 cessor lists thereto; and

13 “(VII) with regard to the treaty
14 cited in clause (i)(II), defense articles
15 for which Australian laws, regulations,
16 or other commitments would prevent
17 Australia from enforcing the control
18 measures specified in such treaty.”.

19 **SEC. 103. ENFORCEMENT.**

20 (a) CRIMINAL VIOLATIONS.—Section 38(c) of such
21 Act (22 U.S.C. 2778(c)) is amended by striking “this sec-
22 tion or section 39, or any rule or regulation issued under
23 either section” and inserting “this section, section 39, a
24 treaty referred to in subsection (j)(1)(C)(i), or any rule
25 or regulation issued under this section or section 39, in-

cluding any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty”.

(b) ENFORCEMENT POWERS OF PRESIDENT.—Section 38(e) of such Act (22 U.S.C. 2278(e)) is amended by striking “defense services,” and inserting “defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i),”.

(c) NOTIFICATION REGARDING EXEMPTIONS FROM LICENSING REQUIREMENTS.—Section 38(f) of such Act (22 U.S.C. 2778(f)) is amended by adding at the end the following new paragraph:

“(4) Paragraph (2) shall not apply with respect to an exemption under subsection (j)(1) to give effect to a treaty referred to in subsection (j)(1)(C)(i) (and any implementing arrangements to such treaty), provided that the President promulgates regulations to implement and enforce such treaty under this section and section 39.”.

(d) INCENTIVE PAYMENTS.—Section 39A(a) of such Act (22 U.S.C. 2779a(a)) is amended by inserting “or exported pursuant to a treaty referred to in section 38(j)(1)(C)(i) of this Act” after “under this Act”.

1 **SEC. 104. CONGRESSIONAL NOTIFICATION.**

2 (a) RETRANSFERS AND REEXPORTS.—Section
3 3(d)(3)(A) of such Act (22 U.S.C. 2753(d)(3)(A)) is
4 amended by inserting “or has been exempted from the li-
5 censing requirements of this Act pursuant to a treaty re-
6 ferred to in section 38(j)(1)(C)(i) of this Act where such
7 treaty does not authorize the transfer without prior United
8 States Government approval” after “approved under sec-
9 tion 38 of this Act”.

10 (b) DISCRIMINATION.—Section 5(c) of such Act (22
11 U.S.C. 2755(c)) is amended by inserting “or any import
12 or export under a treaty referred to in section
13 38(j)(1)(C)(i) of this Act” after “under this Act”.

14 (c) ANNUAL ESTIMATE OF SALES.—Section 25(a) of
15 such Act (22 U.S.C. 2765(a)) is amended—

16 (1) in paragraph (1), by inserting “, as well as
17 exports pursuant to a treaty referred to in section
18 38(j)(1)(C)(i) of this Act,” after “commercial ex-
19 ports under this Act”; and

20 (2) in paragraph (2), by inserting “, as well as
21 exports pursuant to a treaty referred to in section
22 38(j)(1)(C)(i) of this Act,” after “commercial ex-
23 ports”.

24 (d) PRESIDENTIAL CERTIFICATIONS.—

1 (1) EXPORTS.—Section 36(c) of such Act (22
2 U.S.C. 2776(c)) is amended by adding at the end
3 the following new paragraph:

4 “(6) The President shall notify the Speaker of
5 the House of Representatives and the Chairman of
6 the Committee on Foreign Relations of the Senate
7 at least 15 days prior to an export pursuant to a
8 treaty referred to in section 38(j)(1)(C)(i) of this
9 Act to which the provisions of paragraph (1) of this
10 subsection would apply absent an exemption granted
11 under section 38(j)(1) of this Act, for which purpose
12 such notification shall contain information com-
13 parable to that specified in paragraph (1) of this
14 subsection.”.

15 (2) COMMERCIAL TECHNICAL ASSISTANCE OR
16 MANUFACTURING LICENSING AGREEMENTS.—Sec-
17 tion 36(d) of such Act (22 U.S.C. 2776(d)) is
18 amended by adding at the end the following new
19 paragraph:

20 “(6) The President shall notify the Speaker of
21 the House of Representatives and the Chairman of
22 the Committee on Foreign Relations of the Senate
23 at least 15 days prior to an export pursuant to a
24 treaty referred to in section 38(j)(1)(C)(i) of this
25 Act to which the provisions of paragraph (1) of this

1 subsection would apply absent an exemption granted
2 under section 38(j)(1) of this Act, for which purpose
3 such notification shall contain information com-
4 parable to that specified in paragraph (1) of this
5 subsection.”.

6 (e) FEES AND POLITICAL CONTRIBUTIONS.—Section
7 39(a) of such Act (22 U.S.C. 2779(a)) is amended—

8 (1) in paragraph (1), by striking “; or” and in-
9 serting a semicolon;

10 (2) in paragraph (2), by inserting “or” after
11 the semicolon; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(3) exports of defense articles or defense serv-
15 ices pursuant to a treaty referenced in section
16 38(j)(1)(C)(i) of this Act;”.

17 **SEC. 105. LIMITATION ON IMPLEMENTING ARRANGEMENTS.**

18 (a) IN GENERAL.—No amendment to an imple-
19 menting arrangement concluded pursuant to a treaty re-
20 ferred to in section 38(j)(1)(C)(i) of the Arms Export
21 Control Act, as added by this Act, shall enter into effect
22 for the United States unless the Congress adopts, and
23 there is enacted, legislation approving the entry into effect
24 of that amendment for the United States.

25 (b) COVERED AMENDMENTS.—

1 (1) IN GENERAL.—The requirements specified
2 in subsection (a) shall apply to any amendment
3 other than an amendment that addresses an admin-
4 istrative or technical matter. The requirements in
5 subsection (a) shall not apply to any amendment
6 that solely addresses an administrative or technical
7 matter.

8 (2) U.S.-UK IMPLEMENTING ARRANGEMENT.—
9 In the case of the Implementing Arrangement Pur-
10 suant to the Treaty Between the Government of the
11 United States of America and the Government of
12 the United Kingdom of Great Britain and Northern
13 Ireland Concerning Defense Trade Cooperation,
14 signed at Washington February 14, 2008, amend-
15 ments to which the requirements specified in sub-
16 section (a) apply shall include—

17 (A) any amendment to section 2, para-
18 graphs (1), (2), or (3) that modifies the criteria
19 governing operations, programs, and projects to
20 which the treaty applies;

21 (B) any amendment to section 3, para-
22 graphs (1) or (2) that modifies the criteria gov-
23 erning end-use requirements and the require-
24 ments for approved community members re-

1 sponding to United States Government solicita-
2 tions;

3 (C) any amendment to section 4, para-
4 graph (4) that modifies the criteria for includ-
5 ing items on the list of defense articles exempt
6 from the treaty;

7 (D) any amendment to section 4, para-
8 graph (7) that modifies licensing and other ap-
9 plicable requirements relating to items added to
10 the list of defense articles exempt from the
11 scope of the treaty;

12 (E) any amendment to section 7, para-
13 graph (4) that modifies the criteria for eligi-
14 bility in the approved community under the
15 treaty for nongovernmental United Kingdom
16 entities and facilities;

17 (F) any amendment to section 7, para-
18 graph (9) that modifies the conditions for sus-
19 pending or removing a United Kingdom entity
20 from the approved community under the treaty;

21 (G) any amendment to section 7, para-
22 graphs (11) or (12) that modifies the conditions
23 under which individuals may be granted access
24 to defense articles exported under the treaty;

1 (H) any amendment to section 9, para-
2 graphs (1), (3), (7), (8), (9), (12), or (13) that
3 modifies the circumstances under which United
4 States Government approval is required for the
5 re-transfer or re-export of a defense article, or
6 to exceptions to such requirement; and

7 (I) any amendment to section 11, para-
8 graph (4)(b) that modifies conditions of entry
9 to the United Kingdom community under the
10 treaty.

11 (3) U.S.-AUSTRALIA IMPLEMENTING ARRANGE-
12 MENT.—In the case of the Implementing Arrange-
13 ment Pursuant to the Treaty Between the Govern-
14 ment of the United States of America and the Gov-
15 ernment of the Australia Concerning Defense Trade
16 Cooperation, signed at Washington March 14, 2008,
17 amendments to which the requirements specified in
18 subsection (a) apply shall include—

19 (A) any amendment to section 2, para-
20 graphs (1), (2), or (3) that modifies the criteria
21 governing operations, programs, and projects to
22 which the treaty applies;

23 (B) any amendment to section 3, para-
24 graphs (1) or (2) that modifies the criteria gov-
25 erning end-use requirements and the require-

1 ments for approved community members re-
2 sponding to United States Government solicita-
3 tions;

4 (C) any amendment to section 4, para-
5 graph (4) that modifies criteria for including
6 items on the list of defense articles exempt from
7 the scope of the treaty;

8 (D) any amendment to section 4, para-
9 graph (7) that modifies licensing and other ap-
10 plicable requirements relating to items added to
11 the list of defense articles exempt from the
12 scope of the treaty;

13 (E) any amendment to section 6, para-
14 graph (4) that modifies the criteria for eligi-
15 bility in the approved community under the
16 treaty for nongovernmental Australian entities
17 and facilities;

18 (F) any amendment to section 6, para-
19 graph (9) that modifies the conditions for sus-
20 pending or removing an Australian entity from
21 the Australia community under the treaty;

22 (G) any amendment to section 6, para-
23 graphs (11), (12), (13), or (14) that modifies
24 the conditions under which individuals may be

1 granted access to defense articles exported
2 under the treaty;

3 (H) any amendment to section 9, para-
4 graphs (1), (2), (4), (7), or (8) that modifies
5 the circumstances under which United States
6 Government approval is required for the re-
7 transfer or re-export of a defense article, or to
8 exceptions to such requirement; and

9 (I) any amendment to section 11, para-
10 graph (6) that modifies conditions of entry to
11 the Australian community under the treaty.

12 (c) CONGRESSIONAL NOTIFICATION FOR OTHER
13 AMENDMENTS TO IMPLEMENTING ARRANGEMENTS.—
14 Not later than 15 days before any amendment to an imple-
15 menting arrangement to which subsection (a) does not
16 apply shall take effect, the President shall provide to the
17 Committee on Foreign Relations of the Senate and the
18 Committee on Foreign Affairs of the House of Representa-
19 tives a report containing—

20 (1) the text of the amendment; and

21 (2) an analysis of the amendment's effect, in-
22 cluding an analysis regarding why subsection (a)
23 does not apply.

1 **SEC. 106. IMPLEMENTING REGULATIONS.**

2 The President is authorized to issue regulations pur-
3 suant to the Arms Export Control Act (22 U.S.C. 2751
4 et seq.) to implement and enforce the Treaty Between the
5 Government of the United States of America and the Gov-
6 ernment of the United Kingdom of Great Britain and
7 Northern Ireland Concerning Defense Trade Cooperation,
8 done at Washington and London on June 21 and 26, 2007
9 (and any implementing arrangement thereto) and the
10 Treaty Between the Government of the United States of
11 America and the Government of Australia Concerning De-
12 fense Trade Cooperation, done at Sydney, September 5,
13 2007 (and any implementing arrangement thereto), con-
14 sistent with other applicable provisions of the Arms Ex-
15 port Control Act, as amended by this Act, and with the
16 terms of any resolution of advice and consent adopted by
17 the Senate with respect to either treaty.

18 **SEC. 107. RULE OF CONSTRUCTION.**

19 Nothing in this title, the Treaty Between the Govern-
20 ment of the United States of America and the Government
21 of the United Kingdom of Great Britain and Northern Ire-
22 land Concerning Defense Trade Cooperation, done at
23 Washington and London on June 21 and 26, 2007 (and
24 any implementing arrangement thereto), the Treaty Be-
25 tween the Government of the United States of America
26 and the Government of Australia Concerning Defense

1 Trade Cooperation, done at Sydney, September 5, 2007
 2 (and any implementing arrangement thereto), or in any
 3 regulation issued to implement either treaty, shall be con-
 4 strued to modify or supersede any provision of law or reg-
 5 ulation other than the Arms Export Control Act (22
 6 U.S.C. 2751 et seq.), as amended by this Act, and the
 7 International Traffic in Arms Regulations (subchapter M
 8 of chapter I of title 22, Code of Federal Regulations).

9 **TITLE II—AUTHORITY TO** 10 **TRANSFER NAVAL VESSELS**

11 **SEC. 201. SHORT TITLE.**

12 This title may be cited as the “Naval Vessel Transfer
 13 Act of 2010”.

14 **SEC. 202. TRANSFER OF NAVAL VESSELS TO CERTAIN FOR-** 15 **EIGN RECIPIENTS.**

16 (a) TRANSFERS BY GRANT.—The President is au-
 17 thorized to transfer vessels to foreign countries on a grant
 18 basis under section 516 of the Foreign Assistance Act of
 19 1961 (22 U.S.C. 2321j), as follows:

20 (1) INDIA.—To the Government of India, the
 21 OSPREY class minehunter coastal ships KING-
 22 FISHER (MHC–56) and CORMORANT (MHC–
 23 57).

24 (2) GREECE.—To the Government of Greece,
 25 the OSPREY class minehunter coastal ships OS-

1 PREY (MHC-51), BLACKHAWK (MHC-58), and
2 SHRIKE (MHC-62).

3 (3) CHILE.—To the Government of Chile, the
4 NEWPORT class amphibious tank landing ship
5 TUSCALOOSA (LST-1187).

6 (4) MOROCCO.—To the Government of Mo-
7 rocco, the NEWPORT class amphibious tank land-
8 ing ship BOULDER (LST-1190).

9 (b) TRANSFER BY SALE.—The President is author-
10 ized to transfer the OSPREY class minehunter coastal
11 ship ROBIN (MHC-54) to the Taipei Economic and Cul-
12 tural Representative Office of the United States (which
13 is the Taiwan instrumentality designated pursuant to sec-
14 tion 10(a) of the Taiwan Relations Act (22 U.S.C.
15 3309(a)) on a sale basis under section 21 of the Arms
16 Export Control Act (22 U.S.C. 2761).

17 (c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF
18 TRANSFERRED EXCESS DEFENSE ARTICLES.—The value
19 of a vessel transferred to another country on a grant basis
20 pursuant to authority provided by subsection (a) shall not
21 be counted against the aggregate value of excess defense
22 articles transferred in any fiscal year under section 516
23 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

24 (d) COSTS OF TRANSFERS.—Any expense incurred by
25 the United States in connection with a transfer authorized

1 by this section shall be charged to the recipient (notwith-
 2 standing section 516(e) of the Foreign Assistance Act of
 3 1961 (22 U.S.C. 2321j(e))).

4 (e) REPAIR AND REFURBISHMENT IN UNITED
 5 STATES SHIPYARDS.—To the maximum extent prac-
 6 ticable, the President shall require, as a condition of the
 7 transfer of a vessel under this section, that the recipient
 8 to which the vessel is transferred have such repair or re-
 9 furbishment of the vessel as is needed, before the vessel
 10 joins the naval forces of the recipient, performed at a ship-
 11 yard located in the United States, including a United
 12 States Navy shipyard.

13 (f) EXPIRATION OF AUTHORITY.—The authority to
 14 transfer a vessel under this section shall expire at the end
 15 of the 2-year period beginning on the date of the enact-
 16 ment of this Act.

17 **TITLE III—OTHER MATTERS**

18 **SEC. 301. EXPEDITED CONGRESSIONAL DEFENSE EXPORT**

19 **REVIEW PERIOD FOR ISRAEL.**

20 The Arms Export Control Act (22 U.S.C. 2751 et
 21 seq.) is amended—

22 (1) in sections 3(d)(2)(B), 3(d)(3)(A)(i),
 23 3(d)(5), 21(e)(2)(A), 36(b), 36(c), 36(d)(2)(A),
 24 62(c)(1), and 63(a)(2), by inserting “Israel,” before
 25 “or New Zealand” each place it appears; and

1 (2) in section 3(b)(2), by inserting “the Govern-
 2 ment of Israel,” before “or the Government of New
 3 Zealand”.

4 **SEC. 302. EXTENSION OF WAR RESERVES STOCKPILE AU-**
 5 **THORITY.**

6 (a) DEPARTMENT OF DEFENSE APPROPRIATIONS
 7 ACT, 2005.—Section 12001(d) of the Department of De-
 8 fense Appropriations Act, 2005 (Public Law 108–287;
 9 118 Stat. 1011) is amended by striking “more than 4
 10 years after” and inserting “more than 8 years after”.

11 (b) FOREIGN ASSISTANCE ACT OF 1961.—Section
 12 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22
 13 U.S.C. 2321h(b)(2)(A)) is amended by striking “fiscal
 14 years 2007 and 2008” and inserting “fiscal years 2011
 15 and 2012”.

Passed the Senate September 27, 2010.

Attest:

Secretary.

11TH CONGRESS
2^D Session

S. 3847

AN ACT

To implement certain defense trade cooperation
treaties, and for other purposes.